

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KIRK DAHL, et al.,

Plaintiffs,

v.

BAIN CAPITAL PARTNERS, LLC, et al.,

Defendants.

Civil Action
No.07-cv-12388-EFH

ORAL ARGUMENT REQUESTED

**DEFENDANT APOLLO GLOBAL MANAGEMENT, LLC'S
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56 and Local Rules 56.1 and 7.1, defendant Apollo Global Management, LLC ("Apollo") hereby moves for summary judgment as to Count One of Plaintiffs' Fifth Amended Complaint, on the ground that the undisputed facts show that Apollo is entitled to summary judgment as a matter of law.

As explained more fully in the accompanying Memorandum of Law in Support of Apollo's Motion for Summary Judgment, Plaintiffs can point to no evidence creating a genuine issue of material fact that Apollo participated in the alleged "overarching conspiracy." Count One of the Complaint is also time-barred as to Apollo under the Sherman Act's four-year statute of limitations.

In support of this motion, Apollo relies on the following documents, all of which are being filed under seal pursuant to this Court's Order of July 2, 2012 (granting Docket No. 605): (i) Memorandum of Law in Support of Apollo's Motion for Summary Judgment; (ii) Defendants' Memorandum in Support of Their Omnibus Motion for Summary Judgment as to Count One of the Fifth Amended Complaint; (iii) Defendants'

Local Rule 56.1 Statement Of Material Facts As to Which There Is No Genuine Issue to Be Tried; (iv) Apollo's Local Rule 56.1 Statement Of Material Facts As to Which There Is No Genuine Issue to Be Tried; (v) the Declaration of Joseph Tringali in Support of Defendants' Omnibus Motion for Summary Judgment as to Count One of the Fifth Amended Complaint (together with the exhibits thereto); and (vi) the Declaration of Professor Paul C. Gompers (together with exhibits thereto).

WHEREFORE, Apollo respectfully requests that this motion be allowed and that the Court enter judgment for Apollo dismissing Count One of the Complaint with prejudice and grant such other and further relief as the Court deems just and appropriate.

REQUEST FOR ORAL ARGUMENT

Under Local Rule 7.1(D), Apollo respectfully requests oral argument on its separate motion for summary judgment.

Dated: July 23, 2012
New York, New York

Respectfully submitted,

APOLLO GLOBAL
MANAGEMENT, LLC

By its attorneys

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Certificate Pursuant to Local Rule 7.1

I, Kevin M. McGinty, hereby certify that Defendant Apollo Global Management, LLC conferred with counsel for plaintiffs concerning the subject matter of this motion in a good faith effort to resolve or narrow the issues.

/s/ Kevin M. McGinty
Kevin M. McGinty

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by transmission through the Court's electronic case filing system.

Dated: July 23, 2012

/s/ Kevin M. McGinty
Kevin M. McGinty

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